

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
18 APR 16 PM 3:50
CLERK-ALBUQUERQUE

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 15-4268 JB

vs.

ANGEL DELEON, et al.,

Defendants.

**MOTION FOR EXTENSION OF TIME TO COMPLY WITH SUBPOENA TO
PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS IN A CRIMINAL CASE
SERVED ON BERNALILLO COUNTY DISTRICT ATTORNEY'S OFFICE**

Non-party Bernalillo County District Attorney's Office ("BCDAO") respectfully moves the Court to extend the deadlines imposed by the Subpoena to Produce Documents, Information, or Objects in a Criminal Case served by counsel for Defendant Billy Garcia on the BCDAO on April 10, 2018. That subpoena demanded production of complete copies of 24 BCDAO files by April 17, 2018, to include all papers, audio and video recordings, witness interviews and forensic reports. While the BCDAO has worked diligently to gather the requested materials in the very short time allowed, and is able to produce some of the requested materials as described in Exhibit A, the BCDAO requires and hereby requests an additional time of 30 days to search for and produce all available responsive records. The BCDAO therefore moves the Court to extend the subpoena response date to from April 17, 2018 to May 17, 2018.

The subpoena directs the BCDAO to contact paralegals for the defense counsel serving the subpoena with any questions or concerns. On two separate occasions the BCDAO spoke to these paralegals by phone to explain why additional time was needed. The paralegals said they would relay the request to the attorneys, but the BCDAO has received no return communication from defense counsel. Accordingly, Pursuant to DNMLR-47.1, this motion is assumed to be opposed.


MEMORANDUM

1. On April 10, 2018, the U.S. Marshal served the instant Subpoena to the BCDAO custodian. The Subpoena indicates a return date of April 17, 2018. The attachment to the instant Subpoena provides a list of 24 requested case files. (Exhibit B).
2. On April 11th and 12th respectively, the custodian telephoned counsel for Billy Garcia, Mr. Robert Cooper, Esq., in attempt to obtain a stipulated extension of time for 30-45 days for the BCDAO to attempt to retrieve the records for the itemized records. The custodian received no return communication from defense counsel.
3. As of this writing, the BCDAO office has produced 285 pages of responsive records to the request. (Exhibit A). However additional time of 30 days or more is requested so that the custodian can make a good faith effort to obtain the records. Currently, it appears that said files fall into one of two categories: files are located at a off-site storage warehouses, and possibly at state records facilities, meanwhile other files have met internal retention policies and have been destroyed. The BCDAO is on a "manual" system, meaning it is not electronically set up to electronically archive files from the past. As such, compliance with the Subpoena within this time frame is unreasonable.

CONCLUSION AND REQUEST FOR RELIEF

Defendant Garcia subpoenaed BCDAO on April 10, 2018 for “a complete copy of your file related to the prosecution of the cases detailed in the attached document,” for a total of 24 files, due on April 17, 2018. The BCDAO moves the Court to extend the deadline to produce responsive records to this Subpoena because compliance within the short time frame is impossible. Given that counsel for Defendant has not responded to the custodian, under an abundance of caution, the instant Motion to Extend Time is being submitted to the Court. As such, the Court should extend to the time to comply by 30 days, to May 17, 2018.

Respectfully Submitted,

By: 
Erika S. Rojas, Esq.
Records Custodian for BCDAO
520 Lomas Blvd. N.W.
Albuquerque, N.M. 87106
Tele: (505) 222-1099

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of April of 2018, I filed the foregoing by electronic mail (“Email”), which caused the following parties or counsel to be served by electronic means:

Robert R. Cooper
Attorney for Defendant Billy Garcia
bob@rrcooper.com
ROBERT R. COOPER LAW FIRM, P.C.
1011 Lomas Blvd. NW
Albuquerque, New Mexico
(505) 842-8494

James Castle
Castle & Castle, P.C.
1544 Race Street

Denver, CO 80206

jcastlelaw@gmail.com

A handwritten signature in black ink, appearing to read "Eric S. Edwards", is written over a horizontal line.

Records Custodian for BCDAO

520 Lomas Blvd NW

Albuquerque, NM 87102



OFFICE OF THE DISTRICT ATTORNEY
SECOND JUDICIAL DISTRICT
STATE OF NEW MEXICO

RAÚL TORREZ
DISTRICT ATTORNEY

April 16, 2018

Robert Cooper
Robert R. Cooper Law Firm
1011 Lomas Blvd. NW
Albuquerque, NM 87102
bob@rrcooper.com

VIA E-MAIL ONLY

James Castle
Castle & Castle, P.C.
1544 Race Street
Denver, CO 80206
jcastlelaw@gmail.com

VIA E-MAIL ONLY

Re: *United States v. DeLeon*, et al. No. 1:15-cr-4268-JB

Dear Mr. Cooper and Mr. Castle:

The purpose of this letter is to provide you with certain documents regarding the above referenced matter.

Please find the following documents attached herewith:

1. Copies of the criminal case files located for **Manuel Jake Armijo** in DA File No. 2007-01371-01 (D-202-CR-2007-5719) and T-4-FR-2016-000010 (personal identifier information has been redacted) (Total Pages 107).
2. Copies of the criminal case file located for **Roberto Lovato** in DA File No.

2012-02058-1 (D-202-CR-2012-01667) and DA File No. 2012-02058-1
(D-202-CR-2012-01667) (personal identifier information has been redacted) (Total Pages 178).

3. Motion for Extension of Time that will be submitted for filing today, April 16, 2018, as to the remaining case files requested from this office.

4. The status of each file requested is detailed below:

Manuel J. Armijo

1. **DA File No.: 2016-0026-01** - produced herewith
2. T-4-CR-2014-001593 - additional investigation required
3. DA File No.: 2006-4385 - need an extension
4. T-4-DV-2007-01798 - additional investigation required
5. **DA File No.: 2007-01371-01** - produced herewith
6. DA File No.: 2007-05256-01 - additional investigation required
7. T-4-DV-1997-00531 - additional investigation required
8. D-202-CR-1994-02657 - need an extension
9. D-202-CR-1991-00803 - need an extension
10. D-202-CR-1991-00266 - need an extension

Robert Lovato

1. **DA File No. 2012-02058-1** - partial file produced herewith
2. T-4-DV-1997-04864 - additional investigation required
3. DA File No. 1997-1774-01 - file has been destroyed per retention policy
4. D-202-CR-1997-03294 - file has been destroyed per retention policy
5. T-4-DV-1997-00873 - additional investigation required
6. D-202-JR-1994-02117 - file has been destroyed per retention policy
7. D-202-JR-1992-01861 - file has been destroyed per retention policy
8. D-202-JR-1992-01154 - file has been destroyed per retention policy

Gerald Archuleta

1. DA File No. 2007-1809-01 - need an extension
2. DA File No. 2007-1707-03 - need an extension
3. D-202-CR-2000-03770 - Prosecuted by the 13th Judicial District Attorney's Office, records are not in our physical possession
4. T-4-DV-1999-03837 - additional investigation required
5. D-202-CR-1988-45393 - need an extension
6. D-202-CR-1985-39630 - additional investigation required

The case files currently being produced are the only electronic files located in this office that are responsive to the Subpoena. Because of the unique logistical challenges this office has with regards to retrieving archived and stored case files, we need additional time to produce the

remainder of the requested files should the Court grant the Motion to Extend Time filed on April 16, 2018.

Regards,
Erika S. Rojas
Assistant District Attorney/Records Custodian
Administration

RECEIVED
U.S. MARSHALS SERVICE
LAS CRUCES, NEW MEXICO

AO 89B (07/16) Subpoena to Produce Documents, Information, or Objects in a Criminal Case

UNITED STATES DISTRICT COURT 2018 APR -9 PM 4:55

for the
District of New Mexico

United States of America)

v.)

Angel Deleon, et al.)

Case No. 15-CR-4268-JB

Defendant)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR
OBJECTS IN A CRIMINAL CASE

To: Bernalillo County District Attorney's Office
520 Lomas Blvd NW, Albuquerque, NM 87102

(Name of person to whom this subpoena is directed)

YOU ARE COMMANDED to produce at the time, date, and place set forth below the following books, papers, documents, data, or other objects:

A complete copy of your file related to the prosecution of the cases detailed in the attached document. This is to include, but not be limited to, paper and electronic recordings, audio & video recordings, witness interviews & forensic reports.

Place: Robert R. Cooper Law Firm
1011 Lomas Blvd. NW
Albuquerque, NM 87102

Date and Time: 04/17/2018 10:00 am

Certain provisions of Fed. R. Crim. P. 17 are attached, including Rule 17(c)(2), relating to your ability to file a motion to quash or modify the subpoena; Rule 17(d) and (e), which govern service of subpoenas; and Rule 17(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

(SEAL)
4/9/2018

CLERK OF COURT

Victoria Harvell

Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the attorney representing (name of party) Billy Garcia, who requests this subpoena, are:

Robert Cooper, 1011 Lomas Blvd. NW, Albuquerque, NM 87102; bob@rrcooper.com; 505-842-8494
James Castle, 1544 Race Street, Denver, CO 80206; jcastlelaw@gmail.com, paralegalLOS@gmail.com; 303-675-0500

Notice to those who use this form to request a subpoena

Before requesting and serving a subpoena pursuant to Fed. R. Crim. P. 17(c), the party seeking the subpoena is advised to consult the rules of practice of the court in which the criminal proceeding is pending to determine whether any local rules or orders establish requirements in connection with the issuance of such a subpoena. If no local rules or orders govern practice under Rule 17(c), counsel should ask the assigned judge whether the court regulates practice under Rule 17(c) to 1) require prior judicial approval for the issuance of the subpoena, either on notice or ex parte; 2) specify where the documents must be returned (e.g., to the court clerk, the chambers of the assigned judge, or counsel's office); and 3) require that counsel who receives produced documents provide them to opposing counsel absent a disclosure obligation under Fed. R. Crim. P. 16.

Please note that Rule 17(c) (attached) provides that a subpoena for the production of certain information about a victim may not be issued unless first approved by separate court order.

ROBERT R. COOPER LAW FIRM, P.C.

ROBERT R. COOPER bob@rrcooper.com
ATTORNEY AT LAW

1011 Lomas Blvd. NW
Albuquerque, New Mexico 87102
(505) 842-8494
Fax (505) 243-6279

April 9, 2018

To Whom It May Concern:

The following is a list of case files we are requesting from your agency for trial proceedings in US v. Deleon, 15-CR-4268. Please be advised these materials may be provided in electronic format.

Bernalillo County District Attorney's Office

Manuel Jake Armijo:

1. DA File number: 2016-00026-1; D-202-CR-2016-01667; T-4-FR-2016-000010
2. T-4-CR-2014-001593
3. DA File number 2006-4385; D-202-CR-2007-02699; T-4-CR-2006-16591
4. T-4-DV-2007-01798
5. DA File 07-01371-01; D-202-CR-2007-5719
6. DA File 07-05256-1; D-202-CR-2007-04356
7. T-4-DV-1997-00531
8. D-202-CR-1994-02657
9. D-202-CR-1991-00803
10. D-202-CR-1991-00266

Robert Lovato:

1. DA File 2012-02058-1; D-202-CR-2012-01667, T-4-CR-2012-005730
2. T-4-DV-1997-04864
3. DA File 97-1774-01; D-202-CR-1997-02566; T-4-CR-1997-005650
4. D-202-CR-1997-03294; T-4-CR-1997-015305
5. T-4-DV-1997-00873
6. D-202-JR-1994-02117
7. D-202-JR-1992-01861
8. D-202-JR-1992-01154

Gerald Archuleta

1. DA File 2007-1809-1; D-202-CR-2007-1653; T-4-CR-2007-06501
2. DA File 2007-1707; D-202-CR-2007-1582; T-4-CR-2007-05125
3. D-202-CR-2000-03770
4. T-4-DV-1999-03837
5. D-202-CR-1988-45393

ROBERT R. COOPER LAW FIRM, P.C.

ROBERT R. COOPER bob@rrcooper.com
ATTORNEY AT LAW

1011 Lomas Blvd. NW
Albuquerque, New Mexico 87102
(505) 842-8494
Fax (505) 243-6279

6. D-202-CR-1985-39630

Should you have any questions, please contact paralegals Laura Koch at paralegalLOS@gmail.com and Celeste Ranken at celeste@rrcooper.com. We are beginning jury selection for trial, so we will be best reached by email in the coming days. Do not hesitate to contact us with any questions or for us to discuss any prioritization among these requests.

Thank you,

Laura Koch
Paralegal